

APPEAL NO. 030187
FILED FEBRUARY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 12, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable low back injury on _____, and that the claimant did not have disability.

The claimant appealed, contending that the hearing officer's decision is against the great weight of the evidence and that his testimony is corroborated by a witness statement. The claimant attacks the credibility of the witnesses that testified contrary to his position, disputing a number of the hearing officer's factual determinations. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a floorhand on a drilling rig. The claimant testified how, on _____, he was working in a machine ("drum") when the driller started the machine, causing the claimant to "twist, turn, and jump out of the way all at the same time," also hitting some "tongs." The claimant testified the same thing happened again some time later. The claimant's testimony was in conflict with that given by others in the crew indicating that nothing happened on the date and time at issue. The claimant presented a statement from a coworker supporting his testimony. The claimant stresses that he had passed a preemployment physical, which included a lumbar MRI, and that an MRI taken after the alleged injury showed evidence of an injury as defined in Section 401.011(26). The hearing officer referenced the MRI after the alleged injury, finding that the two MRI's are "essentially the same" and that the latter MRI shows "no major structural problems which could result from traumatic injury." The claimant eventually had spinal surgery paid for under his wife's group health coverage.

The issues of injury and disability involve questions of fact for the hearing officer to resolve. The evidence before the hearing officer was conflicting. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Nothing in our review of the record demonstrated that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). This is so even though another fact finder may well have drawn different inferences from the evidence which would have supported a different result.

Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

In that we are affirming the hearing officer's decision that the claimant did not have a compensable injury, the claimant by definition in Section 401.011(16) cannot have disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ACE FIRE UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MELTON
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Terri Kay Oliver
Appeals Judge